

Transportation to paint and perform routine maintenance on the drawbridge. This deviation allows single leaf operation of the double leaf bascule style drawbridge during the project.

**DATES:** This deviation is effective from 7 a.m. September 7, 2011 to 6 p.m. November 22, 2011.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of the docket USCG-2011-0808 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0808 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510-437-3516, e-mail [David.H.Sulouff@uscg.mil](mailto:David.H.Sulouff@uscg.mil) If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The California Department of Transportation has requested a temporary change to the operation of the Steamboat Slough Drawbridge, mile 11.2 Steamboat Slough, at the head of Grand Island, CA. The drawbridge provides 21 feet vertical clearance above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. At all other times the draw shall open on signal if at least four hours notice is given, as required by 33 CFR 117.199. Navigation on the waterway is commercial and recreational.

Either leaf of the double bascule drawspan may be secured in the closed-to-navigation position from 7 a.m. September 6, 2011 to 6 p.m. November 22, 2011, to allow Caltrans to conduct painting and maintenance on the bridge. The opposite leaf will continue to operate normally, providing unlimited vertical clearance and 92 feet horizontal clearance between leaves. A work platform will be installed below the secured leaf, reducing vertical clearance by 6 feet. This temporary deviation has been coordinated with waterway users. No objections to the proposed temporary deviation were raised.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular

operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 29, 2011.

**D.H. Sulouff,**

*District Bridge Chief, Eleventh Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0775]

RIN 1625-AA00

#### Safety Zone; Revolution 3 Triathlon, Sandusky Bay, Lake Erie, Cedar Point, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Erie, Cedar Point, Sandusky, OH. This zone is intended to restrict vessels from a portion of Lake Erie during the Revolution 3 Triathlon. This temporary safety zone is necessary to protect participants, spectators and vessels from the hazards associated with a triathlon event.

**DATES:** This rule is effective from 6 to 11 a.m. on September 11, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0775 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0775 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail the Marine Events Coordinator, LTJG Cory Hoffman, Marine Safety Unit, Toledo, 402 Madison Avenue Suite 700, Toledo, OH 43604; (419) 418-6050, e-mail [Cory.J.Hoffman@uscg.mil](mailto:Cory.J.Hoffman@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

## SUPPLEMENTARY INFORMATION:

### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The permit application for this year's event was not received in sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, waiting for a notice and comment period to run would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with a swimming event in a navigable water.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be impracticable and contrary to the public interest for the the same reasons discussed in the preceding paragraph.

### Background and Purpose

The Revolution 3 Triathlon will occur between 6 a.m. and 11 a.m. on September 11, 2011. Scores of swimmers are expected to participate in this triathlon. The Captain of the Port Detroit has determined that swimming events present a significant risk to public safety. The likely combination of participants and motor vessels in the open waters of Sandusky Bay, Lake Erie presents a high risk of serious injuries or fatalities.

### Discussion of Rule

With the above safety hazards in mind, the Captain of the Port Detroit has determined that a temporary safety zone is necessary to ensure the safety of participants during the Revolution 3 Triathlon. The safety zone will include the waters of Lake Erie within a line drawn from 41-29-00.04 N, 082-40-48.16 W to 41-29-19.28 N, 082-40-38.97 W to 41-29-02.51 N, 082-40-20.82 W to 41-28-45.52 N, 082-40-35.75 W then following the shoreline to the point of origin. In the event of inclement weather, an alternate swim course will be used on the waters of

Sandusky Bay within a line drawn from 41–28–22 N, 082–40–44 W to 41–28–38.59 N, 082–41–10.51 W and extending to 41–28–17.25 N, 082–40–54.09 W. For either course, the safety zone will occur from 6 to 11 a.m. on September 11, 2011. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### *Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that during the short time this zone will be in effect, it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel or legal policy issue. The safety zone will be enforced for a relatively short amount of time, and vessels may still pass through the zone with permission of the Captain of the Port Detroit.

#### *Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently

owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the above portion of Lake Erie near Cedar Point, OH; or in case of inclement weather, the owners or operators of vessels intending to transit or anchor in the above portion of Sandusky Bay between 6 and 11 a.m. on September 11, 2011. The safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for 5 hours during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect. Additionally, the COTP will suspend enforcement of the safety zone if the event for which the zone is established ends earlier than the time expected.

#### *Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *Civil Justice Reform*

This rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### *Protection of Children*

We have analyzed this rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### *Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between Federal Government and Indian tribes.

#### *Energy Effects*

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone, ships can safely pass around the zone, and the zone will be enforced for only five hours. Therefore this rule is categorically excluded under paragraph 34(g) of the Instruction.

An environmental analysis check list and categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-0775 to read as follows:

#### § 165.T09-0775 Safety Zone; Revolution 3, Sandusky Bay, Lake Erie, Cedar Point, OH.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Erie within 41-29-00.04 N, 082-40-48.16 W to 41-29-19.28 N, 082-40-38.97 W to 41-29-02.51 N, 082.40.20.82 W to 41-28-45.52 N, 082-40-35.75 W. In the event of inclement weather, the following alternate area is a temporary safety zone: All waters of Sandusky Bay within 41-28-22 N, 082-40-44 W to 41-28-38.59 N, 082-41-10.51 W to 41-28-17.25 N, 082-40-54.09 W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced from 6:00 a.m. through 11:00 a.m. on September 11, 2011.

#### (c) Regulations.

(1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contact via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall

contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: August 29, 2011.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0786]

RIN 1625-AA00

#### Safety Zones; Fireworks Displays and Surfing Events in Captain of the Port Long Island Sound Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing safety zones for marine events within the Captain of the Port (COTP) Long Island Sound Zone for a surfing event and fireworks displays. This action is necessary to provide for the safety of life on navigable waters during the events. Entry into, transit through, mooring or anchoring within this zone is prohibited unless authorized by the COTP Sector Long Island Sound.

**DATES:** This rule is effective in the CFR on September 8, 2011 through 5 p.m. on September 15, 2011. This rule is effective with actual notice for purposes of enforcement beginning at 8:30 p.m. on September 1, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0786 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0786 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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